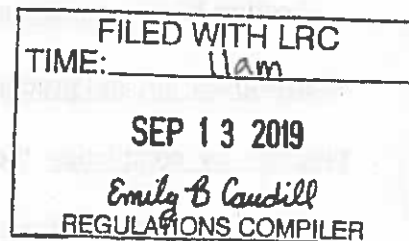


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1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 25:060. Temporary vendors and transient [~~vendors~~]merchants.

5 RELATES TO: KRS 139.010, 139.200, 139.550, 139.660, 365.650, 365.665, 365.680

6 STATUTORY AUTHORITY: KRS 131.130[~~(4)~~], 139.550

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the  
8 Department of Revenue to promulgate administrative regulations for the administration and  
9 enforcement of Kentucky tax laws. This administrative regulation interprets[To interpret] the  
10 sales and use tax law as it applies to temporary vendors and transient [~~vendors~~]merchants.

11 Section 1. Definitions.

12 (1) "Temporary vendor" means a person engaged in selling as described in KRS 139.550.

13 (2) "Transient merchant" is defined by KRS 365.650.

14 Section 2. Temporary vendors and transient merchants who are not registered with an active

15 Sales and Use Tax Account shall report and remit the sales and use tax on a nonpermit basis on the  
16 Temporary Vendor Sales and Use Tax Return (Form 30A006) prescribed by the  
17 department. [~~Persons not regularly engaged in selling at retail and not having a permanent place of~~  
18 ~~business, but who are temporarily engaged in selling from trucks, portable roadside stands,~~

19 ~~concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a~~  
20 ~~nonpermit basis, and shall obtain a retail sales tax registration from the Department of Revenue.]~~

1     Section 3[2]. Transient merchants having no fixed place of business and not selling from a vehicle  
2     shall register for, and procure, a permit in the county in which they make sales of tangible personal  
3     property by completing the Application for Transient Merchant Permit (Form 51A250). The  
4     application shall be submitted to the county clerk or other applicable local representative as  
5     required by KRS 365.665.~~[Persons having no fixed place of business and not selling from a vehicle~~  
6     ~~shall procure a registration in the county in which they make sales of tangible personal property.~~  
7     ~~The application for such registration shall set forth an established residence or permanent mailing~~  
8     ~~address to which all communications from the department shall be addressed.]~~

9     Section 4[3]. Transient merchants having no fixed place of business and selling from vehicles  
10    shall submit an Application for Transient Merchant Permit (Form 51A250) for each vehicle. The  
11    application for registration shall be submitted to the county clerk or other applicable local  
12    representative as required by KRS 365.665.~~[Persons with no fixed place of business and selling~~  
13    ~~from vehicles shall procure a registration for each vehicle.]~~ The[Such] registration shall cover all sales  
14    made from the vehicle in any county in the state. ~~[The application for such registration shall set forth~~  
15    ~~a residence or permanent mailing address in this state to which all communications from the~~  
16    ~~department may be sent.]~~

17    Section 5[4]. Bonding Requirements. (1)~~[Persons coming within the provisions of this~~  
18    ~~administrative regulation]~~ Temporary vendors may be required to post a bond pursuant to the  
19    provisions of KRS 139.660~~[if, in the judgment of the department, it is deemed necessary or~~  
20    ~~advisable to secure the collection of the tax. A cash bond or a surety bond is acceptable]~~. The  
21    amount and type of the bond shall be determined by the department. The tax may be prepaid in lieu  
22    of filing said bond. The bond shall be filed with the department prior to the issuance of the  
23    registration and engaging in business within this state.

1     (2) Transient merchants may be required to post a bond with the Office of the Attorney  
2     General pursuant to the provisions of KRS 365.680.

3     Section ~~6[5]~~. ~~[The sales tax return shall be filed and the tax due shall be paid to either a~~  
4     ~~Department of Revenue field office or representative.]~~The due date for[the] filing[~~of~~] the sales tax  
5     return and remitting payment required by this regulation is the [expiration]due date shown on [the  
6     taxpayer's retail sales tax registration]Form 30A006 as prescribed by the Department, or the date  
7     when selling at the designated location is completed.~~[, whichever is the earlier. In those cases where~~  
8     ~~the sales of tangible personal property are of more than one (1) month's duration, the tax shall be~~  
9     ~~reported and remitted to the department at the end of each month.]~~

10    Section 7. (1) Form 30A006 may be obtained or inspected, subject to applicable copyright  
11    law, from 8:00 a.m. until 4:30 p.m.:

12    (a) At the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601,


13    (b) On the department web site at <http://revenue.ky.gov>; or


14    (c) At a Kentucky Department of Revenue Taxpayer Service Center during their hours of  
15    operation.

16    (2) Form 51A250 may be obtained from the county clerk or other applicable local  
17    representative.

103 KAR 25:060

APPROVED BY AGENCY:

  
\_\_\_\_\_  
DANIEL P. BORK, COMMISSIONER  
Department of Revenue  
Finance and Administration Cabinet

  
\_\_\_\_\_  
Date

## **PUBLIC HEARING AND PUBLIC COMMENT PERIOD**

A public hearing on this administrative regulation shall be held on November 21, 2019, at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), [Lisa.Swiger@ky.gov](mailto:Lisa.Swiger@ky.gov)(email).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 25:060

Contact Person: Lisa Swiger  
Phone Number: (502) 564-9526  
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative interprets the sales and use tax law as it applies to transactions regarding temporary and transient vendors.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to providing up to date guidance on the tax treatment of transactions made by temporary and transient vendors.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed updates amend regulatory language to conform with KRS 131.130 and 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The changes made in this amendment will provide the most current and up to date guidance to taxpayers impacted by the provisions of this regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The proposed amendment will change the existing administrative regulation by updating the authorization statement in the "NECESSITY, FUNCTION, and CONFORMITY" section, adding the form information related to form 30A006, and standardizing language within the administrative regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to providing up to date guidance on the tax treatment of transactions made by temporary and transient vendors.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed updates amend regulatory language to conform with KRS 131.130 and 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of related statutes by providing the most current and up to date guidance to taxpayers impacted by the provisions of this regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Temporary and transient vendors.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No specific impact to those entities detailed in Question 3 are noted based upon the amendments made. Additional guidance is being provided to those entities detailed in Question 3 regarding the topics already included in said regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to comply with the administrative regulation by the entities detailed in Question 3 based upon the amendments made.

(c) As a result of compliance, what benefits will accrue to the entities identified in question

(3): The entities detailed in Question 3 will be knowledgeable as to sales tax filings made by temporary and transient vendors and as such remain in good standing with the Department of Revenue

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no expected cost to implement the proposed amendment. Current staff and budgeted funding will absorb the implementation of this administrative regulation.

(b) On a continuing basis: There is no cost expected on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental staff and funding will be used to implement and enforce this proposed amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional funding or increase in fees is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be applied equally to all entities impacted by it.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 25:060

Contact Person: Lisa Swiger  
Phone Number: (502) 564-9526  
Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There is no estimated impact on expenditures and revenues for state and local governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There is no estimated impact on expenditures and revenues for state and local governments.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect. Any costs associated with this new requirement should be absorbed into the current department maintenance contracts and operating budget.

(d) How much will it cost to administer this program for subsequent years? No additional costs should be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No impact.

Expenditures (+/-): No impact.

Other Explanation: